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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,291	10/25/2001	Frederick M. Morgan	C01104/70088( RFG/JT)	3587

23628 7590 07/22/2003

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EXAMINER

TRAN, CHUC

ART UNIT	PAPER NUMBER
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2821

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/040,291

Applicant(s)

MORGAN ET AL.

Examiner

Chuc D Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-38, 40-70 and 72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-38, 40-70 and 72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10, 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### Remarks

1. The indicated allowability of claims 53-70 is withdrawn in view of the newly discovered reference(s) to Belliveau et al (USP. 4, 962, 687). Rejections based on the newly cited reference(s) follow.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 40-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "the act a), the act b), the act b1) and the act b2)" lacks proper antecedent in that it renders the claim language vague and indefinite. As is presented, the elements required in making up the referenced components are unknown.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-39, 40-70 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belliveau et al (USP. 4,962,687).

Regarding claims 2-39, 40-70 and 72, Belliveau disclose a variable color controlled

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illumination of light source comprising at least one light source (16) being adapted (10) to allow a user to remotely control at least one parameter associated with the variable color radiation generated by the at least one light source (Col. 3, Line 48); to illuminate the light without requiring the use of a color filter (Col. 2, Line 30); one of at least selector includes at least one button (20, 22) (Col. 3, line 56); one of at least two selectors includes at least one switch (Col. 3, Line 56); the at least one remote user interface includes at least processor (Col. 6, Line 65), responsive to the at least two selectors (18), to control the variable radiation of the light source (Col. 6, Line 62) (Col. 7, Line 1); and the at least one storage device (72, 74) is coupled to the processor (70) (Fig. 2) (Col. 6, Line 65); at least one remote user interface (12), coupled to the at least one light source (16), to allow a user to remotely control at least one color of the variable color radiation output (Col. 2, Line 35); and at least one illumination program (Col. 4, Line 4).

Belliveau differ from the claimed invention in that they all call for various conventional variable pool, spa, aquarium, stage-concert music or programmed sequence control lighting fixture, namely variable color lighting system remotely control by the central processor. However, the inclusion of these methods does not render the claims patentably distinct over Belliveau in view of the fact that these methods are well accepted practice for the variable color lighting system which includes lighting fixture controlled from the central processor unit for stage-concert music or programmed sequence (Col. 1, line 63) (Col. 2, Line 30) or this system can be provided in pool and aquarium with special water sealing to prevent the short circuit of the system. Thus, it would have been obvious to anyone of ordinary skill in the art to choose any of the above conventional methods for forming Belliveau's structure in view of its convenient.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

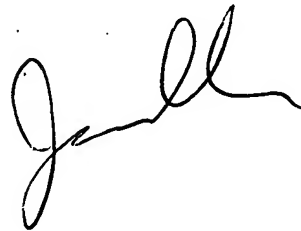
***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuc D Tran whose telephone number is (703)306-5984. The examiner can normally be reached on M-F Flex hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (703)308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

TDC  
July 14, 2003

A handwritten signature in black ink, appearing to be 'J. Tran', written in a cursive style.